

A4R
8.L33
V15/12
Copy3



South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

Vol. 15

March 31, 1998

No. 12

CONTENTS

Week in Review	02
House Committee Action	08
Bills Introduced in the House	11

S. C. STATE LIBRARY

APR 8 1998

STATE DOCUMENTS

OFFICE OF RESEARCH

Room 213, Blatt Building, P.O. Box 11867, Columbia, S.C. 29211, (803) 734-3230

WEEK IN REVIEW

HOUSE

The House sent to the Senate H.4360, the "Sexually Violent Predator Act." The bill establishes procedures for determining if a person is a sexually violent predator, and provides for a civil commitment procedure for the long-term care and treatment of a person found to be a sexually violent predator. The House amended the definition of "sexually violent predator" to state a person must be convicted of (instead of charged with) a sexually violent offense. The amendment also defines the phrase "likely to engage in acts of sexual violence" and adds language to the notice sections to make clear that the notice requirements are not jurisdictional. The amendment also requires that demand for a jury trial must be made within 30 days after a determination that probable cause exists that a person is a sexually violent predator. If such a demand is made, then the court must schedule a trial before a jury for the next available date for jury court in that county.

The House amended and passed H.3889, the "Emergency Medical Services Act." The bill allows an emergency room provider to initiate screening and treatment which will stabilize the condition of a patient without first seeking or receiving authorization from an insurer, health maintenance organization, hospital, medical service corporation, or health benefit plan. Under the bill, an insurer which includes emergency medical services as part of its policy must provide coverage and pay emergency medical service providers in instances where the insured presents an emergency medical condition. The bill prohibits an insurer from retroactively denying coverage or reducing payment to emergency medical service providers even if it is subsequently determined that the insured patient's condition was not an actual emergency.

The House amended and returned to the Senate S.124 which pertains to access to dermatological services under managed health care plans. The bill provides that if a primary care physician makes a referral to a dermatologist, the enrollee in a managed health care plan may see that in-network dermatologist, without further referral, for a minimum of six months or four visits (whichever occurs first) for diagnosis, medical treatment, or surgical procedures for the referral problem or related complications. The dermatologist should send written communication to the primary care physician after each visit. An enrollee with a documented history of malignant melanoma may be referred by his primary care physician to an in-network dermatologist for an annual evaluation and any necessary biopsy or surgery.

The House amended and gave third reading to H.3830 which defines and regulates "prize promotions" in unsolicited consumer telephone calls by requiring a telephone solicitor to disclose promptly the identity of the seller, the nature of goods and services to be sold, and that no purchase is necessary to win or participate in a prize promotion where such promotion is offered. Upon request, the telemarketer must disclose the no purchase/no payment entry method for the prize promotion. As amended, the bill provides that a solicitor must remove a person's name and telephone number from in-house lists, if the person solicited requests, by mail, to have this information removed.

Legislative Update, March 31, 1998

The House concurred in Senate amendments to H.3421 and enrolled the bill for ratification. The bill concerns false reports of child abuse or neglect. The bill states that it is unlawful to knowingly make a false report of abuse or neglect. A person who violates this provision is guilty of a misdemeanor and, upon conviction, must be fined not more than \$5,000 or imprisoned not more than 90 days, or both.

The House tabled H.4646 which establishes for a pilot program allowing armed forces personnel and overseas citizens to transmit their votes via an electronic medium.

The House amended and committed to the Ways and Means Committee H.4378, the Magistrates Court Reform Act of 1998. This bill brings magistrates under the S.C. Court Administration as part of a unified court system. The bill requires magistrates to have a 2 year associate degree as of 5/1/2002 and a 4 year baccalaureate degree by 5/1/2006 (although a grandfathering provision exempts any magistrate serving on 7/1/98 from these provisions). The bill also requires magistrates to observe 10 trials before presiding over a trial. Magistrates would be paid by the state through the S.C. Court Administration, with three base categories for salaries, depending on the population of the county where the magistrate is located. Magistrates in counties of 150,000 or more would be paid 60% of a circuit court judge's salary; for counties between 50,000 and 149,000, magistrates would be paid half of a circuit judges salary; and for counties below 50,000, magistrates would be paid 40% of a circuit court judge's salary. Additionally, magistrates would not be paid 100% of the base salary until after 4 years in office. The House amendment includes a provision requiring the S.C. Court Administration to review and approve the county's designation of full and part-time magistrates. Additionally, a provision in the current law is retained that allows a part-time magistrate to be paid an hourly wage. The amendment also increases the civil action filing fee for actions where damages or the amount claimed exceeds \$1000 from \$25 to \$50, increases the fee for landlord-tenant cases from \$10 to \$40, and raises the costs charged by the court for writing bad checks from \$20 to \$40.

The House approved and enrolled for ratification S.1127 which provides that a zoning ordinance of a municipality or county shall not prohibit church-related activities in a single family residence.

The House amended and sent to the Senate H.4706. Current law provides that an appeal from a conviction of an offense which mandates the suspension or revocation of the driver's license acts to stay the suspension or revocation for a period of sixty days. This bill provides that the appeal would stay the suspension or revocation from the date of conviction until the date a final judgment is entered. As amended, the bill provides that the clerk of the court hearing an appeal must notify the Department of Public Safety of the final disposition of the appeal within ten days of receiving notice to allow the conviction to be removed from the driver's record or to allow the suspension to become effective.

The House returned to the Senate S.377 which provides that the penalties for causing malicious injury to personal and real properties apply both when injury to the property occurs and when property loss occurs.

The House amended and sent to the Senate H.4666, which concerns a juvenile who has been conditionally released from a correctional facility. The juvenile must remain under the authority

of the parole board until the expiration of the specified term imposed in the juvenile's conditional aftercare release. The bill states that the specified period of conditional release may expire before but not after the twenty-first birthday of the juvenile (current law provides that the period of conditional release may not expire after the juvenile's nineteenth birthday).

The House returned S.958 to the Senate with amendments. The House amended the bill so as to conform it to the provisions of H.4619 which were given a report of favorable with amendments by the House Ways and Means Committee. This bill is the implementing legislation for the recent amendment to Article X, Section 16 of the *SC Constitution* authorizing the investment and reinvestment of the funds of various state-operated retirement systems in equity securities. Consistent with requirements of the Constitutional amendment, this bill establishes the State Retirement Systems Investment Panel, consisting of five members, one each appointed by the Governor (this appointee serves as Panel chairman), the State Treasurer, the Comptroller General, and the chairs of the House Ways and Means Committee and the Senate Finance Committee. Also consistent with provisions of the Constitutional amendment, the bill provides for panel members' qualifications, terms of service, duties, and compensation. The bill provides for the authorities of the panel, including a requirement that the panel adopt, in consultation with the State Treasurer, an annual investment plan for the retirement systems for the next fiscal year. This plan must be approved by the State Budget and Control Board, which must provide the panel with a statement of actuarial assumptions and general investment objectives. The plan, which must include components specified in the bill, must be reviewed by the panel at least once each fiscal year quarter. The bill provides that no more than forty percent of the market value of the assets of a retirement system may be invested in equity securities, and any increase during any fiscal year in the proportion of the market value of the assets of a retirement system invested in equity securities may not exceed twenty percent of the market value of the assets of that system. The bill specifies that the State Treasurer's Office shall provide staff for the panel and provide investment reports at least quarterly during the fiscal year to the Budget and Control Board, the panel, the Speaker of the House, and the President Pro Tempore of the Senate. Also, the State Treasurer is required under the bill to provide an annual report, the contents of which are specified in the bill. The costs of administering and operating the investment programs for the retirement systems must be paid from the investment earnings of these systems. The bill provides guidelines and prohibitions for persons who have authority under the bill to invest, manage, or advise in regard to assets of the retirement systems. The bill also provides that the State Budget and Control Board may invest and reinvest the funds of the system in equity securities of a corporation within the United States that is registered on a national securities exchange as provided in the Securities Exchange Act of 1934, or a successor act, or quoted through the National Association of Securities Dealers Automatic Quotations System, or a similar service. The House amended the bill by striking language requiring that the annual investment plan include provisions that allocate at least 30% of the dollar volume of equity transactions to persons or firms which are registered or licensed to engage in such investment activities in South Carolina and which have an office in this state. The amendment to this provision requires that preference for conducting brokerage transactions be given to brokerage firms domiciled in South Carolina if these firms meet the test of equal service and best execution in the purchase and sale of authorized investments. The House also struck a provision in the bill which required that methods for managing the costs of the investment activities must be included as a component of the annual investment plan. The amendment to that provision requires that methods for managing costs of the investment activities must be a component of the annual

investment plan, and must include a provision that annual costs for equity investing must not exceed one percent of the amount invested in equity securities. The House recommitted H.4619 to the Ways and Means Committee.

The House returned to the Senate S.1007 which creates the offense of distributing a controlled substance to an individual with the intent to commit a crime against that individual.

The House approved Joint Resolution H.3054 which creates a committee to study the feasibility of a statewide mass transit system.

The House gave third reading to H.4566 which provides city housing authorities with certain alternatives to selling its real property as surplus to its needs. Under the bill, a city housing authority may opt not to sell its real property as surplus if the real property can be used by the authority for low income home ownership programs or other uses other than the intended purpose for which the real property was originally purchased. A city housing authority may opt not to sell real property as surplus if the property can be exchanged or sold to a state or local public body which desires to use the property for its own projects. A city housing authority may opt not to sell real property as surplus if the property may be sold or exchanged in the implementation of a slum clearance or redevelopment project. All of the alternatives for disposing of property require the approval of the city housing authority commissioners and the approval of the council of the city for which the authority was created.

The House amended and passed H.4575, which concerns eminent domain procedures. The amended bill adds language to the definition of "appraisal" in the Eminent Domain Procedures Act, stating that if the appraised property includes all or a substantial portion of the property of a regulated privately owned water or sewer utility, the opinion as to the value of compensation payable for the property must include all appropriate valuations, including the replacement cost, income, and sales comparison methods of valuation. Replacement cost is computed less depreciation and does not include contributions-in-aid-of construction.

The House sent to the Senate H.4866 which establishes the South Carolina Student Volunteer of the Year Award to honor the boy and girl of school age or under who best exemplifies the spirit of public service and volunteerism. The bill establishes eligibility requirements. Each year, school districts make nominations for the award, and the State Department of Education selects the two recipients who are subsequently honored by the General Assembly. The bill also provides that each school district shall organize volunteer programs for students.

The House sent to the Senate H.4856 which provides that, in instances where a judicial candidate withdraws his name, all the withdrawn candidate's reports, transcripts, application materials, and information gathered in the course of investigation must be kept confidential and destroyed. Such information is exempt from disclosure under the Freedom of Information Act.

The House amended and sent to the Senate H.4704 which exempts from the definition of "gross proceeds of sales" (and thereby exempts from sales tax) the sales price of property on sales which are charged off as bad debts or uncollectible accounts for federal income tax purposes. The bill also provides that a taxpayer who pays the tax on the unpaid balance of an account which has been found to be worthless and is charged off for federal income tax purposes may take credit for the tax paid, except that if an amount charged off is later paid to

the taxpayer, the amount paid must be included in the first return filed after the collection and the tax paid. The House amended the bill by exempting the sales price, *not including sales tax*, of property on sales which are charged off as bad debts or uncollectible accounts for *state* income tax purposes, except that if an amount charged off is later paid to the taxpayer, the amount paid must be included in the first return filed after the collection and the tax paid.

The House amended and sent to the Senate H.4526 which provides that, effective on the first day of the first month following approval of the Governor, the admissions license tax does not apply to any amount of the charge for admission that is a fee or tax imposed by a political subdivision of the State. The House amended the bill by changing the effective date to January 1, 1999.

The House sent to the Senate H.4672, which exempts from sales tax the sale or resale or the exchange of an interest in a vacation time sharing plan and a vacation multiple ownership interest.

The House sent to the Senate Joint Resolution H.4644 which requires the state to set aside \$1,500,000 annually to pay fees and expenses of private counsel appointed in noncapital cases.

The House sent to the Senate H.4621, which requires that the benefits paid under the accidental death benefit pension of the SC Police Officers' Retirement System must be adjusted to reflect increases in the Consumer Price Index in the manner provided under *SC Code of Laws*, Section 9-1-1810 (SC Retirement System).

The House amended and sent to the Senate H.4502 which requires outpatient methadone treatment facilities to obtain a Certificate of Need from DHEC prior to constructing a new health care facility or modifying an existing facility and prior to making any significant capital or equipment expenditure. As amended, the bill provides that no such certificates of need shall be issued until DHEC promulgates licensure standards for outpatient methadone treatment facilities. A study committee to revise and propose licensure standards is provided for under the bill.

The House returned to the Senate S.920 which revises several provisions relating to organ donations. The Commission on Organ, Tissue, and Eye Donation is created to ensure that hospitals comply with federal and state laws concerning notification of the Donor Referral Network of potential organ, tissue, and eye donors. The bill amends the manner in which a body or body parts may be donated by adding a provision which waives family consent to a donation if sufficient documentation such as a driver's license, living will, power of attorney, or other document has been executed by the donor. The bill designates specific organizations to receive potential organ and tissue donor referrals and donations. A provision is added that requires law enforcement officers, coroners, and emergency personnel responding to the scene of an accident or trauma to take reasonable steps to ensure that any evidence acknowledging that a person is a donor accompany that person to the hospital. Under S.920, the South Carolina Donor Referral Network and agencies in the Donor Referral Network are prohibited from assessing a fee against another procurement agency for a donor referral.

The House also returned to the Senate S.921 which amends the Uniform Anatomical Gift Act, which provides for organ donations made for transplantation purposes. The bill defines an organ procurement organization as the agency or organization designated by the Health Care Financing Administration as the organ procurement agency for the State. The bill states that if an organ donor does not name a specific donee, the organ must be donated to the state organ procurement organization. The bill allows the organ procurement organization to enter into reciprocal agreements to share organs with qualified organ procurement organizations in other states. The proposed agreement must be approved by the United Network for Organ Sharing or its successor. Unless otherwise provided for by a reciprocal agreement, the organ procurement organization may transfer an organ to an out-of-state recipient for transplantation once if a suitable recipient in South Carolina cannot be found in a reasonable amount of time.

The House sent to the Senate H.4654 which eliminates the current provision of law which allows the Department of Natural Resources (DNR) to contract with enforcement officers. The bill also allows the director of DNR to remove an appointed officer at his discretion. Presently, only DNR's governing board is authorized to remove an appointed enforcement officer upon satisfactory proof that he is not fit for the position.

The House amended and sent to the Senate H.4757 which authorizes the Department of Natural Resources (DNR) to establish temporary slow speed zones in South Carolina waters by designating the areas with regulatory markers. The bill also gives DNR the authority to temporarily close areas of state waters to recreational and commercial vehicles for ten days if DNR determines that flood conditions make operating such vehicles dangerous. The Governor may extend a temporary closure until flood conditions are no longer dangerous. The closure does not apply to law enforcement or medical personnel or to persons who own or lease property within the affected area.

The House approved S.1123 which authorizes the Adjutant General to order a member of the national guard or state guard to active duty for not more than fifteen days, subject to the consent of the Governor and the guard member.

SENATE

The Senate spent much of the week engaged in a filibuster concerning S.947, which seeks to ban video poker. Senators who favor banning video poker were not able to garner enough support to cut off debate on the measure. The Senate will resume debate on video poker this week.

The Senate concurred in the House amendments to S.289, concerning the use of inmate labor by a nonprofit corporation. The bill has been enrolled for ratification. The bill states that no violent offender shall be afforded the opportunity to perform labor for nonprofit organizations if such labor is outside the confines of a correctional institution, and that inmates participating in such labor shall not benefit in any manner contradictory to existing statutes.

The Senate amended and gave third reading to H.3421, concerning a false report of child abuse or neglect. The bill states that it is unlawful to knowingly make a false report of abuse

or neglect. A person who violates this provision is guilty of a misdemeanor and, upon conviction, must be fined not more than \$5,000 or imprisoned not more than 90 days, or both. The Senate also gave third reading and returned to the House H.3974, which provides that a minor may not be placed in a foster home if the minor has been convicted of or pled guilty to a sex offense, unless the placement is in a therapeutic foster home or unless the minor is the only child in the foster home. However, the placing agency may petition the court for an order allowing the minor to be placed in a foster home, other than a therapeutic home, if good cause is shown.

The Senate amended and returned to the House H.4346, concerning the issuance of special license plates bearing the emblem of nonprofit organizations. The amendment provides that a public university or college which has submitted an emblem to the Department of Transportation may request a change in the emblem once the existing inventory of the license plate has been exhausted instead of once every five years. The Senate also returned H.4594, which authorizes the use of bream on the Edisto River on certain set hooks. The Senate sent S.852 back to the House as well. This bill concerns the South Carolina Jocassee Gorges Trust Fund.

The Senate gave third reading and sent to the House the following bills: S.950, concerning Immigration and Naturalization Service special agents; S.1069, concerning an election pilot project for overseas voters; S.1084, which concerns the transportation of certain hazardous waste materials; S.1110, which relates to agents who transact the business of insurance (see Bill Introduced in the House for a more detailed summary of these bills).

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

The full Agriculture, Natural Resources and Environmental Affairs Committee did not meet this week.

EDUCATION AND PUBLIC WORKS

The Education and Public Works Committee reported favorable with amendment on S.850, the Senate's *Performance and Accountability for Excellence in Teaching and Learning (EXCEL) Act*. As passed by the Senate, this bill combines higher academic standards, immediate and long-term assistance to students and schools, and a performance-based accountability system as a comprehensive legislative initiative to improve teaching and learning in South Carolina.

The committee struck all after the enacting words of the Senate bill and inserted the House-passed version of H.4399, the *Performance and Accountability Standards for Schools (PASS) Act*. A summary of H.4399, as passed by the House, is included in the February 3, 1998, issue of the *Legislative Update*. A summary of S.850, as passed by the Senate, is included in the March 3, 1998, issue of the *Legislative Update*.

JUDICIARY

The full Judiciary Committee amended and passed out H.3533, which concerns the validity of state laws and regulations. The S.C. Supreme Court has held that a statute will not be declared unconstitutional unless its repugnance to the South Carolina Constitution is "clear and beyond a reasonable doubt." See *State v. Hornsby*, 484 S.E.2d 869 (S.C. 1997). The original bill stated that when a party seeks to overturn or strike down an act, resolution, or law of this State, the party must prove by clear and convincing evidence that the act, resolution, or law is unconstitutional. The committee amendment changes the standard from "clear and convincing" to "beyond a reasonable doubt." The bill requires the court to ensure that the plaintiff has served the S.C. Attorney General with a copy of all pleadings in the action. The bill also requires the Attorney General, upon conclusion of the action, to promptly notify the Speaker of the House, the President Pro Tempore of the Senate, and the chairmen of the Senate and House Judiciary Committees if the court in its ruling declares an act, resolution, or law enacted by the General Assembly as unconstitutional or otherwise without force and effect.

The full committee also gave a favorable recommendation to S.772. This bill allows the magistrate to compel the attendance of any witness residing in the county. Current law provides that the magistrate may compel the attendance of a witness who resides not more than 20 miles from the magistrate's location. The committee also passed S.1007 which creates the offense of distributing a controlled substance to an individual with the intent to commit a crime against that individual.

H.4706 received a favorable report from the Judiciary Committee. Current law provides that an appeal from a conviction of an offense which mandates the suspension or revocation of the driver's license acts to stay the suspension or revocation for a period of sixty days. This bill states that the appeal would stay the suspension or revocation from the date of conviction until the date a final judgment is entered.

The full committee also passed out S.377. This bill provides that the penalties for causing malicious injury to personal and real properties apply both when injury to the property occurs and when property loss occurs. Also receiving a favorable report by the full committee was H.4666, which concerns a juvenile who has been conditionally released from a correctional facility. The juvenile must remain under the authority of the parole board until the expiration of the specified term imposed in the juvenile's conditional aftercare release. The bill states that the specified period of conditional release may expire before but not after the twenty-first birthday of the juvenile (current law provides that the period of conditional release may not expire after the juvenile's nineteenth birthday).

The committee amended and gave a favorable recommendation to H.3888, which includes cigarette rolling paper in the list of tobacco related items that may not be sold or given to a minor under the age of 18. The amendment includes cigars in the list of items not to be provided to minors, and increases the penalty for violating this prohibition (for a first offense, a fine of at least \$100; for a second offense, a fine of at least \$200; and a third or subsequent offense, a fine of at least \$200 or imprisonment for up to 30 days). All fines must be paid to the county treasurer where the conviction occurred.

The full committee amended and gave a favorable report to S.332. This bill concerns confiscated pistols used in the commission of a crime, and gives the police chief or the sheriff the authority to destroy the pistol (current law provides that the pistol must be transferred to the clerk of court or to the mayor for destruction). The bill also prohibits any disposition of the pistol until the results of any legal proceedings involving the pistol are completed. The committee amended the bill to allow certain individuals (judges, solicitors, and assistant solicitors) to carry a concealable weapon anywhere within the state when carrying out the duties of their office.

LABOR, COMMERCE AND INDUSTRY

The House Labor, Commerce and Industry Committee gave a favorable report to H.4737 which pertains to educational requirements for the licensure of real estate brokers and salesmen. The bill provides that, for licensure as a real estate salesman, an applicant must complete sixty, rather than the current thirty, hours of classroom instruction in the fundamentals of real estate principles and practices on evidence. For a real estate broker's license, the applicant must complete one hundred fifty, rather than the current one hundred twenty hours. For a real estate broker's license, ninety, rather than the current sixty, hours of instruction may be the same hours required for the salesman's license. The bill does not alter the other forms of academic training which satisfy licensure requirements under current law.

The committee gave a favorable report to H.4755 which adds residence, whether temporary or not, at a charitable or emergency protective shelter to the list of living arrangements which are not governed by the SC Landlord and Tenant Act. The legislation applies to both public and private shelters.

The committee also gave a favorable report to H.4566 and reports of favorable with amendments to H.3889, H.3830, and S.124, all of which were passed by the full House (see House Week in Review, this issue).

The committee returned H.3116 to the Business and Commerce Subcommittee. The bill provides employers with incentives for allowing employees paid leave time for participating in volunteer teaching programs and other public school activities.

The committee tabled H.3898, H.3899, and H.3900. H.3898 provides that an asset or a reduction in liability from the reinsurance ceded by a domestic insurer to an assuming insurer must be allowed in certain situations. H.3899 deletes the restrictions against counterclaims and deletes the provision that no setoff is allowed in favor of certain persons. H.3900 reorders the priority of distribution of claims from an insurer's estate and provides for a new class covering the claims of insurers and reinsurers.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full Medical, Military, Public and Municipal Affairs Committee gave a favorable report to **S.920** and **S.921**.

S.920 deletes, revises, and rewrites several provisions relating to organ donations. The Commission on Organ, Tissue, and Eye Donation is created to ensure that hospitals comply with federal and state laws concerning notification of the Donor Referral Network of potential organ, tissue, and eye donors. The bill amends the manner in which a body or body parts may be donated by adding a provision which waives family consent to a donation if sufficient documentation such as a driver's license, living will, power of attorney, or other document has been executed by the donor. The bill designates specific organizations to receive potential organ and tissue donor referrals and donations. A provision is added that requires law enforcement officers, coroners, and emergency personnel responding to the scene of an accident or trauma to take reasonable steps to ensure that any evidence acknowledging that a person is a donor accompany that person to the hospital. Under **S.920**, the South Carolina Donor Referral Network and agencies in the Donor Referral Network are prohibited from assessing a fee against another procurement agency for a donor referral.

S.921 was reported favorable. This bill amends the Uniform Anatomical Gift Act, which provides for organ donations made for transplantation purposes. The bill defines an organ procurement organization as the agency or organization designated by the Health Care Financing Administration as the organ procurement agency for the State. The bill states that if an organ donor does not name a specific donee, the organ must be donated to the state organ procurement organization. The bill allows the organ procurement organization to enter into reciprocal agreements to share organs with qualified organ procurement organizations in other states. The proposed agreement must be approved by the United Network for Organ Sharing or its successor. Unless otherwise provided for by a reciprocal agreement, the organ procurement organization may transfer an organ to an out-of-state recipient for transplantation once if a suitable recipient in South Carolina cannot be found in a reasonable amount of time.

WAYS AND MEANS

The full Ways and Means Committee did not meet this week.

BILLS INTRODUCED IN THE HOUSE

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

H.4886 *HANDICAPPED PERSONS MAY USE CROSSBOWS FOR HUNTING* Rep. Sharpe

This bill mandates the Department of Natural Resources (DNR) to promulgate regulations to allow upper limb handicapped persons to use a crossbow to hunt or take deer in game zones 1, 2, and 4 during seasons when archery tackle may be used.

EDUCATION AND PUBLIC WORKS

S.1115 K-3 CLASS SIZE Sen. Education Committee

This bill provides that school districts which reduce class size to a pupil-teacher ratio of fifteen to one in full-day kindergarten programs and in grades one through three are eligible for funding from the General Assembly for this purpose. Local match is required based on the Education Finance Act formula. The bill provides a phased-in funding schedule for costs of the lower ratios, beginning with funding for kindergarten in school year 1998-99 and ending with funding for third grade beginning with school year 2001-2002. The bill provides for implementation of the reduced ratio, and provides for school districts which are certified by the State Board of Education as unable to implement the reduced ratio due to lack of available facilities.

H.4878 MEDICAL UNIVERSITY OF SC ADMISSIONS CRITERIA Rep. Davenport

This House resolution creates a committee of five members of the House, appointed by the Speaker, to investigate and report back to the full House membership by May 14, 1998, the determinative criteria actually employed by the Medical University of South Carolina in admitting students into its programs.

H.4908 HANDICAPPED PARKING PLACES Rep. Howard

This bill allows a woman beyond her sixth month of pregnancy or who has delivered a child who is less than three months old, to park in a handicapped parking place.

JUDICIARY

H.4884 CAMPAIGN AND LOBBYING PRACTICES Rep. Harrison

This bill states that lobbyists must report their lobbying activity and lobbyist's principals must report their expenditures attributable to lobbying with the State Ethics Commission no later than January 10 of the succeeding year. Current law requires the reports to be filed by December 31 of the year when the lobbying activities occur. The bill also changes the time (from April 1 to April 10 and from October 1 to October 10) that state agencies must file their lobbying report for each filing period.

The bill also would allow cabinet members to attend a function paid for by a lobbyist's principal if all cabinet members are invited to the function. Furthermore, the bill provides that the State Ethics Commission must approve the release of information concerning a complaint once it determines the complaint is groundless and the respondent has authorized the release of information about the disposition of the complaint. The bill also eliminates the requirement to send campaign reports to the State Election Commission (the reports must be filed with the State Ethics Commission).

S.950 FEDERAL LAW ENFORCEMENT OFFICERS Sen. Bryan

This bill provides that Immigration and Naturalization Service special agents are defined as "federal law enforcement officers." A federal law enforcement officer is authorized to enforce criminal laws in South Carolina when providing assistance to local or state law enforcement agencies or when a crime is committed in his presence.

S.1069 OVERSEAS VOTING PILOT PROJECT Sen. Holland

This bill gives the State Election Commission the authority to establish, in cooperation with the Federal Voting Assistance Program, a pilot project for the purposes of permitting armed forces personnel and overseas citizens to transmit their votes to the election authority over an electronic medium using the Internet. For purposes of this project, armed forces personnel and overseas citizens are entitled to cast and have counted votes for only those candidates and questions for which they would be eligible to cast an absentee ballot.

H.4897 LEGAL REPRESENTATION OF THE STATE Rep. Cobb-Hunter

Under the provisions of this legislation, the Attorney General may not enter into a contract with a private law firm or private sole practitioner of law for the legal representation of this State without first obtaining competitive bids and approval from the State Budget and Control Board. The bill creates a Board of Review to establish a roster of private law firms and private sole practitioners of law who are pre-approved as eligible competitive bidders for contracts for legal representation of the State. The board must be composed of five nonlegislative members, one each to be appointed by the South Carolina Bar Association, the South Carolina Women Lawyers Association, the South Carolina Black Lawyers Association, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate. The appointees of the three state legal associations must be attorneys licensed to practice law in this State. The appointees of the Speaker of the House of Representatives and the President Pro Tempore of the Senate must have backgrounds in finance or business. The members would serve terms of three years or until their successors are appointed.

The Board of Review would solicit applications for preapproval and establish a list of eligible attorneys and law firms appropriate to each type of anticipated case. The board also would develop and implement a competitive bid process, requiring at least three competitive bids from preapproved attorneys or law firms for each proposed contract for legal representation of this State. The names of the eligible competitive bidders must be rotated to the end of the list following participation in a competitive bid. Solicitation of bids from a preapproved attorney or law firm outside of the rotation must be justified in writing. Furthermore, the bill states that the Attorney General may not enter into the proposed contract for private legal representation of the State without first obtaining the approval of the State Budget and Control Board, and that the approval must not be withheld unreasonably.

H.4899 MINIMUM AGE FOR MARRIAGE Rep. Easterday

This bill requires both males and females to be 16 years old before entering into a valid marriage. Current law prohibits males under the age of 16 or females under the age of 14 from entering into a marriage.

H.4902 LIMITED LIABILITY COMPANY'S DISSOLUTION Rep. Robinson

This bill deletes the current provision of law stating that a limited liability company (LLC) is dissolved and its business must be wound up if a member who is also a manager or any member of an at will company dissociates himself from the LLC, unless the remaining members agree to continue or the business is governed by a right to continue provision in the operating agreement.

H.4903 DOMESTIC TERRORISM Rep. Altman

This bill states that a person who, with or without forced entry, invades the home, residence, dwelling or property of another person with the intent to terrorize, harm, or rob its inhabitants or guests, and uses force, coercion, or duress to confine, contain, threaten, injure or rob the inhabitants, guests, or property is guilty of domestic terrorism and, upon conviction, must be sentenced to death. A person who aids or abets a person convicted of this offense, or who conspires with him or on his behalf, before or after the act of domestic terrorism, must be sentenced to death.

H.4905 NONPROFIT CORPORATIONS Rep. Fleming

This bill adds a new chapter to the S.C. Code of Laws entitled "Corporations Not-for-Profit Financed by Federal or State Loans" and repeals Chapter 35 of Title 33, entitled "Nonprofit Corporations Financed by Federal Loans." In addition to the general powers of nonprofit corporations, nonprofit corporations created pursuant to this legislation may engage in the business of supplying water or sewage disposal, or a combination of water and sewer services, and provide other services and facilities, including fire protection services, ambulance services, and medical clinic facilities to individuals, corporations, and political subdivisions within the geographical area specified within the articles of incorporation. Counties, municipalities, and other political subdivisions may contract with nonprofit corporations for those purposes, and water and sewer authorities also may make provision for fire protection.

Before providing any of the services authorized in this legislation, a nonprofit corporation or a group intending to organize a nonprofit corporation must notify the governing body of the county or municipality in which the service is to be provided of its intention and the nature of the service. The governing body will have a period of 90 days from the date of the notification to approve the request to provide the services or inform the person requesting permission to provide the service that the governing body intends to provide the service as a public function of government. The notification of intent by the governing body must include a detailed description of the area to be served, the services to be provided, and the time schedule under which the service will be available from the county or municipality.

LABOR, COMMERCE AND INDUSTRY

H.4861 WORKERS' COMPENSATION COMMISSION HEARINGS Rep. Clyburn

This bill provides the Workers' Compensation Commission shall designate the site where hearings are held. Upon a motion a motion by either the employer or employee involved in the hearing, the Commission must take any hardship circumstances into consideration in selecting the site for the hearing.

H.4870 PROTESTS OF ISSUANCE/RENEWAL OF ALCOHOL LICENSES Rep. Jennings

This bill specifies the information which must be included in a written protest of the issuance or renewal of a beer and wine permit, a retail liquor license, or a minibottle license. If a protestant, during the course of the investigation, expresses no desire to attend a contested hearing and offer testimony before the Administrative Law Judge Division, the protest is deemed invalid and the permit/license shall be issued or renewed, if all other statutory requirements are met. A person who files a protest and fails to appear at a hearing after affirming a desire to attend the hearing may be assessed a fine or penalty to include court costs and attorney's fees.

H.4888 SPORTS EQUIPMENT CONSIGNMENT STORES Rep. Loftis

This bill requires owners and operators of stores which accept sporting goods or equipment (i.e. bicycles, ski equipment, exercise equipment, etc.) for consignment to record specified information about the goods accepted. Such records must be open to inspection by law enforcement officers or the administrator of the Department of Consumer Affairs or his designee. No owner or operator may accept sporting goods or equipment from a person if there is evidence on the items of third party ownership, without first taking reasonable steps to ascertain the true ownership of the items. If third party ownership of items is discovered after goods have been received for consignment, the owner or operator must return the items, on demand, to the third party owner.

H.4981 INSURANCE COVERAGE FOR CONTRACEPTIVES Rep. Cobb-Hunter

This bill prohibits an individual or group health and accident insurance policy or health maintenance organization plan from excluding or restricting benefits for federally-approved contraceptive drugs/devices or outpatient contraceptive services, if the policy or plan provides benefits for other outpatient prescription drugs, devices, or services. Such insurers may not discriminate against individuals or health care professionals for use of such contraceptive benefits. Such insurers may not offer rebates or incentives to discourage the use of such benefits.

S.1110 INSURANCE AGENTS Sen. McConnell

This bill changes the due date for biennial collection of insurance agent license fees. The bill also deletes from the required annual report to the General Assembly the schedule for required capital, surplus, and reserve amounts; and, the list of all eligible surplus lines insurers. The bill specifies how notification requirements may be satisfied when a premium service company cancels an insurance contract. The bill authorizes the board of directors for the Legal Malpractice Insurance Joint Underwriting Association to elect a chairman and other necessary officers. The bill also authorizes the board of directors for the Day Care Joint Underwriting Association to elect a chairman and other necessary officers.

H.4906 NOTIFICATION OF REPORTS OF BAD CREDIT Rep. Byrd

This bill requires that an individual or business that reports and individual to a consumer credit reporting agency as having bad credit or posing a credit risk must provide written notification to the reported individual that the report has been made. One who fails to comply with the provisions is guilty of a misdemeanor and subject to a fine of one thousand dollars.

H.4909 INSURANCE COVERAGE FOR TREATMENT OF MENTAL HEALTH CONDITIONS Rep. Baxley

This bill requires health insurance plans to provide coverage for treatment of mental health conditions and prohibits insurers from establishing any rate, term, or condition that places a greater financial burden on an insured for access to treatment for a mental health condition than for access to treatment for a physical health condition. The bill provides that before July 1, 2000, the Department of Insurance shall report to the General Assembly on: the estimated impact of the act on health insurance costs; actions taken by the department to assure the compliance of health insurers; and, identification of segments of the state's population that may be excluded from access to treatment for mental health and substance abuse conditions, as provided in the act.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.4877 CERTIFICATE OF NEED AND HEALTH FACILITY LICENSURE Rep. Altman

This bill amends the Certificate of Need and Health Facility Licensure Act by revising the definition of "*children or adolescents in need of mental health treatment*," to include a child under the age of 21 who is a client of or committed to the custody of the State.

H.4877 CONTINUING EDUCATION PROGRAM FOR COSMETOLOGISTS Rep. Sharpe

This bill requires the State Technical Education Board to administer a program to provide continuing education for cosmetologists. The bill also requires the Department of Labor, Licensing and Regulations to promulgate regulations establishing course content and qualifications for continuing education instructors. A provision in the bill allows persons outside of South Carolina to satisfy their continuing education requirement in South Carolina by completing continuing education courses that meet the requirements of the state in which they are practicing.

H.4876 PERSONS WHO MAY AUTHORIZE CREMATION Rep. Cromer

This bill gives preference to a person designated as the decedent's agent in a will or other verified document to authorize the cremation of the decedent.

H.4871 RECIPROCAL CERTIFICATION OF PHYSICIANS Rep. Harrell

Current state law allows the State Board of Medical Examiners to grant reciprocal certifications to physicians who are licensed by the National Board of Medical Examiners and the National Board of Examiners for Osteopathic Physicians and Surgeons. This bill allows the State Board of Medical Examiners to issue a reciprocal certification to a physician licensed by the Medical Council of Canada.

WAYS AND MEANS

H.4862 TWENTY-FIVE YEAR STATE RETIREMENT STUDY COMMITTEE Rep. Govan

This bill establishes the Twenty-Five Year State Retirement Study Committee, consisting of nine *ex-officio* members representing the House, the Senate, the SC State Employees' Association, the SC Education Association, and the State Budget and Control Board. The committee is created to conduct a study to determine full costs and benefits of allowing members of the SC Retirement System to retire at any age without penalty with at least 25 years of credited service. The bill specifies components which must be included in the study, and requires that the committee's findings and conclusions be reported to the General Assembly by October 15, 1998.

H.4868 MOTOR CARRIERS/PROPERTY TAXES Rep. H. Brown

This bill revises the definition of "*motor carrier*" as it relates to the assessment of property taxes, by clarifying that the definition extends to the transportation of both property and persons. The bill provides definitions (in the context of property tax assessment) for "*bus*" and for "*gross capitalized cost*." The bill also provides that if a motor carrier fails to file an annual property tax return with the Department of Revenue (DOR), the department must issue a proposed assessment which assumes all mileage was within the state (the value of a motor carrier's vehicles subject to property taxes in SC is based on the ratio of total mileage operated

within this state during the preceding calendar year to the total mileage of its entire fleet operated within and without SC during the same preceding calendar year). The bill also revises the basis on which motor vehicle taxes are annually assessed by DOR, adds a requirement that DOR must publish the average millage for the preceding year by June 1 of each year, and deletes a provision that the average millage may be increased to cover loss of revenue incurred by DOR from not licensing trailers.

H.4872 PROPERTY TAX RELIEF FUND Rep. Cobb-Hunter

This bill provides that reimbursements to tax districts from revenues credited to the State Property Tax Relief Fund must be made on a *per capita* basis. The bill also provides that if amounts received by a school district pursuant to this distribution are not sufficient to reimburse fully for the base year operating millage, the local school board shall decide how to make up the shortfall. The bill also provides that amounts received by a district in excess of the amount necessary to reimburse the district for the base year operating millage may be retained by the district.

H.4873 TAXATION ON MOBILE HOMES Rep. Cobb-Hunter

This bill exempts from *ad valorem* taxation a mobile home which is occupied as legal residence by an owner sixty-two years of age or older.

H.4874 PROPERTY TAXES Rep. Rodgers

This bill extends the five percent assessment ratio for property taxes to commercial "vessels," which are defined as vessels used for commercial fishing, shrimping, or crabbing and which are licensed by the Department of Natural Resources (DNR) for these purposes; vessels licensed by DNR as charter fishing vessels which file monthly catch reports if the owner can demonstrate that at least 50% of his earned income is derived from charter fishing activities; vessels used primarily for towage, pilotage, the transportation of freight, or the transportation for passengers for hire; or vessels used primarily for marine construction activities or used primarily as a tender or support vessel for a commercial operation. Current law allows the five percent assessment ratio for "commercial fishing boats," defined as boats licensed by DNR which are used exclusively for commercial fishing, shrimping, or crabbing.

H.4875 SALE OF SC PUBLIC SERVICE AUTHORITY Rep. Haskins

This joint resolution requires that by July 1, 1998, the State Budget and Control Board must issue a request for proposals (RFP) soliciting bids for the purchase of the SC Public Service Authority (the Authority) by a third party from the State of SC. The resolution provides minimum criteria which must be included in the RFP, and requires that on or before January 1, 1999, the Budget and Control Board must accept the highest bid which meets the criteria. The resolution requires that the Authority cooperate with the Budget and Control Board and with interested bidders in regard to the RFP, including a provision that the Authority must certify its assets and liabilities, its income statements for the last five years, and its balance sheet to the Budget and Control Board by June 1, 1998. The resolution provides that if a majority of the Budget and Control Board members vote that the Authority has failed to meet these requirements, the payments by the Authority to the state general fund (as required under current law) for the year 1999 will be increased by 100% over those paid for the year 1998. Additionally, the resolution provides that the appropriate court may issue a writ requiring the Authority to comply with the requirements of the resolution and citing the Authority for civil contempt for failure to perform. The resolution provides that the revenue from any sale must

be deposited into a special fund separate from the general fund, to be known as the "*South Carolina Educational Trust Fund*," and the resolution provides for management and administration of this fund and for withdrawals of principal from the fund. Upon consummation of the purchase and sale, Title 58, Chapter 31 of the *SC Code of Laws (SC Public Service Authority)* would be repealed.

H.4881 WORKERS' COMPENSATION HEARINGS Rep. Clyburn

This bill requires that a county provide sufficient physical facilities at a consistent location in which the Workers' Compensation Commission may conduct hearings at no expense to the Commission.

H.4885 REFUND OF 1986 SC INCOME TAX OVERPAYMENT Rep. Walker

This joint resolution provides that a claim for refund for overpayment of SC individual income tax reported on the 1986 state tax return is considered timely when filed within 45 days of the effective date of this resolution if: 1) the overpayment is attributable to inclusion on the taxpayer's 1986 state return gain recognized on the sale of real property in another state; and 2) the gain was properly and timely reported for state income tax purposes in the state where the property was located.

H.4889 USE OF SURPLUS REVENUES Rep. Easterday

This bill requires that the State Treasurer make recommendations to the Joint Bond Review Committee (JBRC) on savings that could be obtained by using General Fund surplus revenues to accelerate the repayment of outstanding capital improvement bonds and by paying cash for projects for which bonds have been authorized but not issued. The bill requires the JBRC to adopt a plan which incorporates these recommendations, and requires the State Budget and Control Board to implement the plan.

H.4898 RETIREMENT SYSTEM CREDIT FOR MILITARY SERVICE Rep. Robinson

This bill amends SC law regarding retirement system credit by providing that any member of the SC Retirement System, the General Assembly Retirement System, and the Police Officers' Retirement System with two or more years of creditable service shall receive additional creditable service for the period of his military service at the rate of one year of military service for each *one year* (current law is for each *two years*) of his creditable service excluding any period of creditable military service, as long as he meets certain conditions as specified under current law. The bill also provides that active military duty includes service in the national guard, and the bill specifies how a member may establish creditable service for national guard service. The bill also provides that the prohibition on duplication of benefits applicable to credit established for federal employment also applies to credit established for service in the national guard and national guard service may not be established for periods of service credited or creditable in the retirement systems which are referenced in this bill.

H.4900 ADMISSIONS LICENSE TAX Rep. Bauer

This bill adds "admissions to any membership facility that provides only tennis courts" to the list of exemptions from the 5% admission license tax.

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (www.lpittr.state.sc.us) and click on the "Quick Find Guide." On the next screen, click on "Legislative Updates." This will list all of the *Legislative Updates* by date. Click on the date you need.

SPECIAL NOTE: A cumulative index to the weekly issues of the *Legislative Update* has been added to the *Legislative Update* page on the Worldwide Web. Bills are listed in numerical order in this index. Each bill number is followed by a list of hypertext links (in chronological order) to every reference to that bill in any issue of the *Legislative Update* during the current session, 1997-98. This is an easy way (just click on the links) to find summaries of bills introduced into the House and to follow the progress of a bill through House committees and on the floors of the House and Senate.